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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/576,676	05/23/2000	MOR HARCHOL-BALTER	MIT-118	3928
51414 7590 01/26/2007 GOODWIN PROCTER LLP PATENT ADMINISTRATOR EXCHANGE PLACE BOSTON, MA 02109-2881			EXAMINER RYMAN, DANIEL J	
			ART UNIT	PAPER NUMBER
			2616	
SHORTENED STATUTORY PERIOD OF RESPONSE		MAIL DATE	DELIVERY MODE	
3 MONTHS		01/26/2007	PAPER	

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary	Application No. 09/576,676	Applicant(s) HARCHOL-BALTER ET AL.	
	Examiner Daniel J. Ryman	Art Unit 2616	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 01 December 2006.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3, 6, 7, 11-17, 20, 21 and 25-27 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 14 is/are allowed.
- 6) ☒ Claim(s) 1-3, 6, 7, 11-13, 15-17, 20, 21 and 25-27 is/are rejected.
- 7) ☒ Claim(s) 2, 3, 16 and 17 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Arguments

1. Applicant's arguments with respect to claims 1-3, 6, 7, 11-17, 20, 21 and 25-27 have been considered but are moot in view of the new ground(s) of rejection.
2. The indicated allowability of claims 1-3, 6, 7, 11-13, 15-17, 20, 21, and 25-27 is withdrawn in view of the rejection below.

Claim Objections

3. Claims 2 and 16 are objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form. Claims 1 and 15, which claims 2 and 16 depend upon, respectively, recite: "(a) *randomly or pseudorandomly* selecting . . . only one second cooperating node." Claims 2 and 16 recite: "wherein step (a) *comprises randomly* selecting . . . the second node." Thus, claims 2 and 16 only require that step (a) include a random selection of the second node where claims 1 and 15 already recite that step (a) includes a random selection of the second node. As such, claims 2 and 16 fail to further limit claims 1 and 15, respectively. Examiner notes that Applicant may be trying to claim that step (a) *consists of* randomly selecting the second node, i.e. that a node will randomly select rather than pseudorandomly select the second node; however, this concept has not been claimed.
4. Claims 3 and 17 are objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or

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rewrite the claim(s) in independent form. Claims 1 and 15, which claims 3 and 17 depend upon, respectively, recite: “(a) *randomly or pseudorandomly* selecting . . . only one second cooperating node.” Claims 3 and 17 recite: “wherein step (a) *comprises pseudo-randomly* selecting . . . the second node.” Thus, claims 3 and 17 only require that step (a) include a pseudo-random selection of the second node where claims 1 and 15 already recite that step (a) includes a pseudo-random selection of the second node. As such, claims 3 and 17 fail to further limit claims 1 and 15, respectively. Examiner notes that Applicant may be trying to claim that step (a) *consists of* pseudo-randomly choosing the second node, i.e. that a node will pseudo-randomly select rather than randomly select the second node; however, this concept has not been claimed.

Claim Rejections - 35 USC § 101

5. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

6. Claims 1-3, 6, 7, 11-13, 15-17, 20, 21 and 25-27 are rejected under 35 U.S.C. 101

because the claimed invention is directed to non-statutory subject matter. In order for a method claim to be statutory, the method must have a practical application. A practical application can be identified in one of the following ways: (1) the claimed invention “transforms” an article or physical object to a different state or thing and (2) the claimed invention otherwise produces a useful, concrete and tangible result. Here, the method outlined in independent claims 1 and 15 is merely an algorithm for transmitting information to another node. There is no “transformation” of an article or physical object during the selection and transmission steps outlined in the claims. In addition, there is no useful, concrete, and tangible result, since the transmitted information is not used for anything. Simply, the method is merely an abstract idea. In order to be statutory, the

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claims should require that the transmitted information be used to obtain a useful, concrete, and tangible result, such as compiling a table of all other nodes in the network which the node uses to find resources located on the network.

Allowable Subject Matter

7. Claim 14 is allowed. The prior art does not disclose or fairly suggest randomly or pseudo-randomly selecting only one other node with which to exchange node information in a given period, as outlined in the Response filed 15 August 2006.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Daniel J. Ryman whose telephone number is (571)272-3152. The examiner can normally be reached on Mon.-Fri. 8:00am-4:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Huy Vu can be reached on (571)272-3155. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


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Daniel J Ryman

Examiner

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DJR



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